

ORIGINAL

**ORDINANCE NO. 38**

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, CREATING THE OFFICE OF HEARING EXAMINER, ESTABLISHING PROCEDURES FOR A LAND USE REGULATORY HEARING SYSTEM, PROVIDING FOR APPEALS, AND AMENDING ORDINANCES 20 AND 21 WHICH ADOPTED BY REFERENCE KING COUNTY CODE TITLES 20 AND 21A.**

WHEREAS, the City of Shoreline will incorporate on August 31, 1995; and

WHEREAS, the City Council has conducted public hearings on June 19 and June 26 at which testimony from members of the public was heard regarding proposed land use comprehensive plan, subdivision, zoning, and other development regulations; and

WHEREAS, the City of Shoreline wishes to have a user-friendly hearing examiner land use regulatory process in effect on the date of incorporation; and,

WHEREAS, the procedures established in the King County Code Title 21A and 20 are more conducive to a county rather than a City and the City of Shoreline wishes to adopt a more streamlined hearings examiner process which can better respond to the needs of the community; and

WHEREAS, the City intends to embark on a comprehensive planning process including revisiting adopted interim codes after the date of incorporation when additional planning staff are available to the City; NOW, THEREFORE,

**THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, DOES ORDAIN AS FOLLOWS:**

**Section 1. Purpose.** The purpose of this section is to provide an administrative land use regulatory system which will best satisfy the following needs:

- A. Provide a single, efficient integrated land use, shorelines management and environmental protection regulatory hearing system;
- B. Render land use regulatory decisions and recommendations to the City Council;
- C. Provide a greater degree of fairness and due process in land use regulatory hearings;
- D. Separate the City's land use planning program from the land use regulatory process;
- E. Protect the community's general health, safety and welfare as provided for in RCW Chapter 35A.63.

**Section 2. Created.** There is created the office of Hearing Examiner for the conduct of hearings on such matters involving the interests of the City and its citizens over which jurisdiction from time to time is conferred on the Hearing Examiner by the City Council. In addition, to the grant of the power to the Hearing Examiner to determine those land use matters set forth in this Ordinance, the City Manager is authorized to refer to the Hearing Examiner for a determination those matters which from time to time are believed appropriate.

**Section 3. Hearing Examiner Independence.** The hearing examiner shall be free of any supervision or other influence from the City Manager or any official or employee of the City with respect to any decision or recommendation made by the Hearing Examiner on a specific case, issue, or permit. Nothing in this section may be construed to prohibit the City Manager or any employee or official of the City from appearing before or submitting written information to the Hearing Examiner in the normal process of conducting public hearings for the City. No Hearing Examiner shall conduct or participate in any hearing or decision in which the Hearing Examiner has a direct or substantial financial interest.

**Section 4. Appointment.** The City Manager shall employ or contract with one or more persons to fill this position. The Hearing Examiner shall be appointed and compensated consistent with the general personnel and/or procurement laws of the City.

**Section 5. Qualifications.** Hearing examiners shall have such training or experience as the City Manager believes necessary to qualify Hearings Examiners to conduct administrative or quasi-judicial hearings on land use regulatory, shorelines management and environmental protection matters. Hearing Examiners on non-land use matters shall have such qualifications as the City Manager may from time to time determine. Hearing Examiners shall hold no other appointive or elected public office or position in the City government except as Hearing Examiners.

**Section 6. Division of Responsibilities between Hearing Examiner and City Manager or Designee.** The City Manager or Designee is authorized to make decision on land use matters to the extent permitted under Washington law and the King County Code sections adopted by reference by the City, including permit applications. Any person aggrieved by a final decision made by the City Manager or Designee shall have the right to an appeal before the Hearing Examiner. The appellant shall bear the costs of the appeal. Provided that for land use applications which are required to have a public hearing, except as otherwise set forth by ordinance, the Hearing Examiner shall conduct the public hearing and issue a final decision.

**Section 7. Powers and Duties.** In the performance of duties prescribed by this or other ordinance, the Hearing Examiner is authorized to:

- A. Administer oaths and affirmations, examine witnesses, rule upon offers of proof, receive evidence, and conduct discovery procedures which may include propounding interrogatories and taking oral depositions; provided, that no person

shall be compelled to divulge information which he or she could not be compelled to divulge in a court of law;

B. Issue and witness, upon the request of a City officer or any party, or upon the Hearing Examiner's own volition; provided, that any such subpoena shall state the name and address of the witness sought, and if for the production of books, documents or things, shall specifically identify the same and the relevance thereof to the issues involved;

C. Regulate the course of the hearing in accordance with rules of this and other applicable ordinances;

D. Hold conferences for the settlement or simplification of the issues by consent of the parties;

E. Dispose of procedural requests or similar matters;

F. Make such decisions or recommendations as are contemplated herein and by other ordinances conferring jurisdiction on the Hearing Examiner;

G. Take any other action authorized by ordinance;

H. Make rules for the conduct of hearings, notices and other proceedings and procedures not inconsistent with this ordinance and any other applicable ordinance. An audio or video record of the hearing proceedings shall be maintained and shall be made available for public review;

I. Make recommendations for revision to relevant codes and ordinances which will clarify or otherwise improve the development review process.

**Section 8. Staff Support.** Administrative staff support including, but not limited to, preparation of staff reports and Notice of Hearings, shall be provided to the Hearing Examiner.

**Section 9. Public Hearings.** There shall be only one open record public hearing on each land use application that is required by state statute to have a public hearing. That public hearing shall occur before the Hearing Examiner, unless otherwise provided by ordinance. A public hearing may be continued by the Hearing Examiner if appropriate.

**Section 10. Decisions and Recommendations.** The Hearing Examiner must issue a final decision on all land use applications and other matters within ten (10) working days from the close of the record unless the applicant consents to additional time. The Hearing Examiner may issue a recommendation to the Council on a quasi-judicial rezone application.

**Section 11. Appeals.** Decisions made by the Hearing Examiner shall be appealable directly to King County Superior Court.

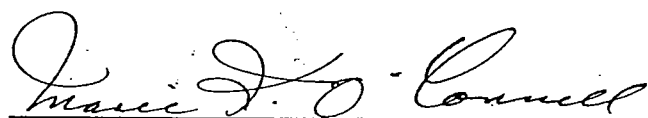
**Section 12. Amending Ordinance Nos. 11 and 21.** This ordinance supersedes and replaces any provisions of Ordinance Nos. 11 and 21, which adopted by reference King County Code Chapters 20.24. and 21A.42, as they relate to the authority of the City of Shoreline Hearing Examiner and Director of Community Development. The authority of these officials shall be as set forth herein.

**Section 14. Effective Date and Publication.** A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall take effect and be in full force five (5) days after the date of publication or the date of incorporation as the law may require.

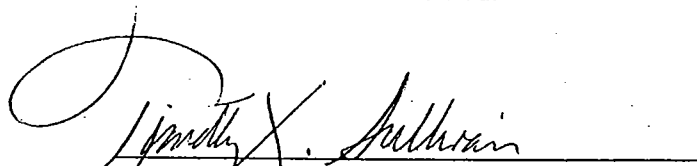
**PASSED BY THE CITY COUNCIL ON AUGUST 7TH, 1995.**

  
Mayor Connie King

ATTEST:

  
Marie K. O'Connell, Interim City Clerk

APPROVED AS TO FORM:

  
Timothy X. Sullivan, Interim City Attorney

Date of Publication: 8/9/95  
Effective Date: 8/14/95